

906 KAR 1:060. Nursing pool hearings.

RELATES TO: KRS 216.860, 216.865

STATUTORY AUTHORITY: KRS 13B.005-13B.170, 194.030(12)(b), 216.865, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.865 states that the Secretary of the Cabinet for Health Services shall adopt administrative regulations relating to licensure fees, standards of care and service, and procedures for enforcement of penalties for nursing pools. The Office of Inspector General has been designated the promulgating agency in accordance with KRS 194.030(12)(b). This administrative regulation sets forth the hearing process for appeals of negative licensure actions related to nursing pools. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.

Section 1. Definitions. (1) "Cabinet" means Cabinet for Health Services.

(2) "Hearing officer" is defined in KRS 13B.010(7).

(3) "Negative licensure action" means an action by the cabinet to revoke, modify, suspend or deny relicensure of a nursing pool.

Section 2. (1) Any nursing pool may appeal negative licensure action taken by the cabinet by notifying the cabinet within twenty (20) days of the issuance of notice of negative licensure action. Upon receipt of notice of appeal, the secretary of the cabinet shall designate a hearing officer.

(2) Notice of hearing shall be served on the nursing pool not less than twenty (20) days prior to the commencement of the hearing. The notice of hearing shall contain the reasons for negative licensure action, and shall comply with KRS 13B.050(3). The notice of hearing shall be served by certified mail, return receipt requested to the nursing pool, or by personal service.

(3) The hearing officer may hold a prehearing conference to consider simplification of the issues, admissions of facts and documents which may avoid unnecessary proof, limitations of the numbers of witnesses and such other matters as may aid in the disposition of the matter. Disposition of the matter may be made at the prehearing conference, by stipulation, agreed settlement, or consent order. Prehearing conferences shall be open to the public. A written prehearing order shall be part of the record.

(4) The hearing shall be conducted in accordance with KRS 13B.080 and 13B.090.

(5) The hearing officer shall make a recommended order to the cabinet including written findings of fact, conclusions of law, and a recommended decision. With the recommended order, the hearing officer shall forward to the cabinet the record consisting of those items listed in KRS 13B.130, including all documents, exhibits and recorded testimony introduced in the hearing.

(6) The cabinet shall issue a final determination of licensure status within thirty (30) days of the receipt of the recommendation of the hearing officer.

(7) In addition to the grounds for disqualification as set forth in KRS 13B.040(2)(b), no hearing officer shall participate in any hearing involving a nursing pool with which he has had in the past twelve (12) months preceding the hearing, any ownership, in whole or in part, employment, staff, fiduciary, contractual, creditor or consultative relationship. (15 Ky.R. 1993; Am. 1133; eff. 4-19-89; 22 Ky.R. 2497; eff. 7-5-96.)